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12 Attorneys for Plaintiffs

13 UNITED STATES DISTRICT COURT

14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 PENSION TRUST FUND FOR OPERATING
16 ENGINEERS; F.G. CROSTHWAITE and
17 RUSSELL E. BURNS, as Trustees,

18 Plaintiffs,

19 vs.

20 TRACTOR EQUIPMENT SALES, INC., a
21 California corporation, J.L. WHITE
22 INTERNATIONAL, INC., a California
23 corporation, TES ASSET MANAGEMENT
24 AND CONSULTING GROUP, a California
25 joint venture, and DOES 1-20

26 Defendants.

27 Case No.: C 12-01056 JSW

28 **REQUEST TO CONTINUE CASE
MANAGEMENT CONFERENCE AND
ALL RELATED DEADLINES;
[PROPOSED] ORDER THEREON**

Date: February 15, 2013

Time: 1:30 p.m.

Courtroom 11, 19th Floor

Judge: The Honorable Jeffrey S. White

20 Plaintiffs herein respectfully request that the Case Management Conference currently on
21 calendar for February 15, 2013, 1:30 p.m., and all related deadlines, including ADR deadlines, be
22 continued for 90 days, to evaluate whether or not plaintiffs will be amending the complaint to
23 name new defendants.

24 1. Good Cause exists for the request: This action arises under the Employee
25 Retirement Income Security Act of 1974 (“ERISA”), as amended by the Multiemployer Pension
26 Plan Amendments Act of 1980 (29 U.S.C §§1001-1461 (1982)), to recover withdrawal liability
27 amounts owed by Tractor Equipment Sales, Inc. and its controlled group members to plaintiffs

1 Pension Trust Fund for Operating Engineers, F.G. Crosthwaite, and Russell E. Burns
2 ("Plaintiffs").

3 2. On March 1, 2012, plaintiffs filed a Complaint in this matter. (Dkt. #1)

4 3. Service was effectuated on defendants Tractor Equipment Sales, Inc., a California
5 corporation, J.L. White International, Inc., a California corporation, and TES Asset Management
6 and Consulting Group, a California joint venture, by personal service on Jim White, authorized
7 agent and/or officer for each defendant on April 9, 2012. A proof of service was filed on April 19,
8 2012. (Dkt. # 10)

9 4. Defendant Tractor Equipment Sales, a California corporation, filed a Chapter 7
10 Bankruptcy in the U.S. Bankruptcy Court, Northern District of California, on May 14, 2012. On
11 June 7, 2012, plaintiffs filed a Notice of Automatic Stay Under 11 U.S.C. Section 362 as to
12 defendant Tractor Equipment Sales, Inc. only. (Dkt. #15) Further, plaintiffs' counsel made an
13 appearance at the Meeting of Creditors wherein plaintiffs' counsel conferred with counsel for
14 defendant Tractor Equipment Sales, a California corporation and the Bankruptcy Trustee.

15 5. On May 29, 2012, plaintiffs filed their first request that the Case Management
16 Conference scheduled on June 22, 2012, and all of its associated deadlines, be continued for 60
17 days in anticipation of plaintiffs filing a Request for Entry of Default against Defendant TES Asset
18 Management and Consulting Group, a California joint venture and/or amending the complaint to
19 add new defendants. (Dkt. 12)

20 6. On May 30, 2012, the Motion to Continue Case Management was granted by the
21 Court and the Case Management Conference was continued to August 24, 2012 at 1:30 pm. (Dkt.
22 #13)

23 7. On June 19, 2012, plaintiffs filed a Notice of Voluntary Dismissal of Defendant
24 J.L. White International, Inc. only. (Dkt. 16)

25 8. On July 25, 2012, plaintiffs filed a Request for Default of TES Asset Management
26 and Consulting Group, a California joint venture, only. (Dkt. # 17)

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REQUEST TO CONTINUE CMC; [PROPOSED] ORDER THEREON
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1 9. On July 30, 2012, plaintiffs filed their second request that the Case Management
 2 Conference scheduled on August 24, 2012, and all of its associated deadlines, be continued for 90
 3 days in anticipation of plaintiffs filing a Motion for Default as to defendant TES Asset
 4 Management and Consulting Group, a California joint venture. (Dkt. # 18)

5 10. On August 1, 2012, the Motion to Continue Case Management was granted by the
 6 Court and the Case Management Conference was continued to December 7, 2012 at 1:30 pm.
 7 (Dkt. #22).

8 11. On October 30, 2012, Plaintiffs received an Order from the bankruptcy court
 9 granting a document production that occurred on December 11-12, 2013 (the earliest available
 10 date for debtor's bankruptcy counsel). Defendants' produced voluminous financial documents.
 11 Plaintiffs' counsel is currently conducting an extensive document review and have not determined
 12 whether or not plaintiffs will be adding defendants to this instant action.

13 12. On November 7, 2012, plaintiffs filed their third request that the Case Management
 14 Conference scheduled on December 7, 2012, and all of its associated deadlines, be continued for
 15 90 days in anticipation of defendants producing financial documents in the bankruptcy proceeding.
 16 (Dkt. # 24)

17 13. On November 8, 2012, the Motion to Continue Case Management was granted by
 18 the Court and the Case Management Conference was continued to February 15, 2013 at 1:30 pm.
 19 (Dkt. #25).

20 14. On January 11, 2013, plaintiffs filed a Notice of Voluntary Dismissal of Defendant
 21 TES Asset Management & Consulting, only, based on information produced during the
 22 bankruptcy proceeding. (Dkt. 26)

23 15. Since no defendants have appeared in the action, there is no need to hold a Case
 24 Management Conference or elect an ADR procedure.

25 16. Therefore, plaintiffs respectfully request that the Case Management Conference
 26 currently scheduled for February 15, 2013, and all of its associated deadlines, be continued for 90
 27 days in anticipation of Plaintiffs completing discovery in the bankruptcy proceeding and thereafter

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REQUEST TO CONTINUE CMC; [PROPOSED] ORDER THEREON
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1 analyzing the information received in order to determine whether it has grounds for amending its
2 complaint to add additional defendants.

3 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
4 entitled action, and that the foregoing is true of my own knowledge.

5 Executed this 30th day of January, 2013, at San Francisco, California.

6 SALTZMAN & JOHNSON LAW CORPORATION

7 By: _____/S/
8 Julie A. Richardson
9 Attorneys for Plaintiffs

10 **ORDER**

11 IT IS SO ORDERED.

12 Based on the foregoing, and GOOD CAUSE APPEARING, the currently set Case
13 Management Conference is hereby continued to May 3, 2013 at 1:30 p.m. All related
14 deadlines, including ADR deadlines, are extended accordingly.

15 Date: January 30, 2013

16 
17 THE HONORABLE JEFFREY S. WHITE
18 UNITED STATES DISTRICT JUDGE

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